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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/234,847	01/22/1999	STUART B. LEVY	PKZ-013CP	5517

959 7590 03/21/2002

LAHIVE & COCKFIELD
28 STATE STREET
BOSTON, MA 02109

EXAMINER

BADIO, BARBARA P

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 03/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/234,847

Applicant(s)

LEVY ET AL.

Examiner

Barbara P Badio, Ph.D.

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7 and 29-51 is/are pending in the application.
- 4a) Of the above claim(s) 2-6 and 30-51 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,7 and 9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: _____

First Office Action on the Merits of a Continued Prosecution Application

Continued Prosecution Application

1. The request filed on March 4, 2002 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/234,847 is acceptable and a CPA has been established. An action on the CPA follows.

Status of the Application

2. Claims 1, 2, 4-7 and 29-51 are pending in the present application. Claims 2, 4-6 and 30-51 stand withdrawn from further consideration as being drawn to a non-elected invention. Claims 1, 7 and 29 stand rejected as indicated below.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

4. The rejection of claims 1 and 29 under 35 USC 102(b) over Bernardi et al. ('942) is maintained.

The rejection is maintained for the reasons of record as discussed in the previous Office Action.

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Briefly, the instant claims do not exclude the prior art compounds. Applicant can overcome the rejection by including the limitations disclosed in the present specification into the instant claims.

5. **The rejection of claims 1 and 29 under 35 USC 102(b) over Bernardi et al. ('384) is maintained.**

The rejection is maintained for the reasons indicated above in #3.

Claim Rejections - 35 USC § 103

6. **The rejection of claims 1, 7 and 29 under 35 USC 103(a) over Bernardi et al. ('942) is maintained.**

The rejection is maintained for the reasons indicated above in #3.

7. **The rejection of claims 1, 7 and 29 under 35 USC 103(a) over Bernardi et al. ('384) is maintained.**

The rejection is maintained for the reasons indicated above in #3.

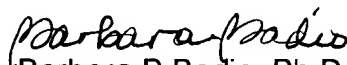
Telephone Inquiry

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara P Badio, Ph.D. whose telephone number is 703-308-4595. The examiner can normally be reached on M-F from 7:30am-4pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees can be reached on 703-308-4628. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4556 for regular communications and 703-308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.


Barbara P Badio, Ph.D.
Primary Examiner
Art Unit 1616

BB
March 19, 2002